

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

JOHN MARK VAN DEN HEUVEL,
Plaintiff,
v.
WARREN C. STRANCENER, et al.,
Defendants.

No. 2:23-cv-0278 DB P

ORDER AND FINDINGS AND
RECOMMENDATIONS

Plaintiff is a former¹ county inmate proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. By order dated July 27, 2023, the undersigned dismiss the complaint for failure to state a claim. (ECF No. 5.) Plaintiff was given thirty days leave to file an amended complaint and warned that failure to comply would result in a recommendation that this action be dismissed. (Id.) Those thirty days have passed, and plaintiff has not filed an amended complaint, sought additional time to file an amended complaint, or otherwise responded to the court's order. Accordingly, the undersigned will recommend that this action be dismissed for failure to prosecute and failure to comply with court orders.

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¹ At the time plaintiff filed the complaint he was in the custody of El Dorado County (See ECF No. 1-1 at 1.) However, a notice of change of address filed in Van den Heuvel v. Clark, 2:23-cv-0708 KJM DMC (E.D. Cal.) on June 30, 2023, indicates that plaintiff has been released from custody.

For the foregoing reasons, the Clerk of the Court is ORDERED to randomly assign this action to a United States District Judge.

IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See Local Rule 110; Fed. R. Civ. P. 41(b).

These findings and recommendations are submitted to the United States District Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days after being served with these findings and recommendations, plaintiff may file written objections with the court and serve a copy on all parties. Such a document should be captioned “Objections to Magistrate Judge’s Findings and Recommendations.” Plaintiff is advised that failure to file objections within the specified time may waive the right to appeal the District Court’s order.

Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

Dated: September 11, 2023


DEBORAH BARNES
UNITED STATES MAGISTRATE JUDGE

DB:12

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